

**At a Regular Meeting of the Town Council of the Town of Middletown,  
RI held at the Middletown Town Hall on Monday, May 21, 2012 at 6:00  
P.M.**

**Council President Arthur S. Weber, Jr., Presiding**

**Vice President Bruce J. Long**

**Councillor Richard Cambra**

**Councillor Christopher T. Semonelli**

**Councillor Barbara A. VonVillas, Members Present**

**Councillor Antone C. Viveiros, Absent**

**Councillor Edward J. Silveira, Jr.**

**PLEDGE OF ALLEGIANCE TO THE FLAG**

## **RECONSIDERATION**

**The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:**

**If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)**

**There were no reconsiderations.**

## **PUBLIC HEARING – ADVERTISED FOR 6:00 PM**

### **1. Public Hearing (Advertised)**

**Proposed amendments to the Middletown Town Charter.**

**Public Hearing was declared open.**

**Town Administrator Shawn Brown reviewed the proposed Charter amendments, entered here:**

**Council President Weber noted that the proposed Charter amendments were guided by the Town Solicitor.**

**Councillor Semonelli noted concern with proposed amendment 207 (c) explaining that a department could be eliminated by four Councillors' vote.**

**Vice President Long explained the addition to the proposed amendments 207 (d) which would allow for a merge of similar functions for efficiency.**

**Jonathon Reese, 66 Girard Avenue, Newport, President of Middletown Firefighter's Association, addressed the Council noting concern with the Council not appointing citizens to review the Charter and concern that amendment 207 does not contain a specific process to be followed when eliminating a department. Mr. Reese also noted concern with amending Section 913 explaining the current collective bargaining process works and requests the Council to reject the proposed changes to the charter.**

**M. Theresa Santos, 214 Morrison Avenue, addressed the Council expressing concern that the Council did not appoint residents to**

**review the charter for changes, noting citizens are being left out of the process. Ms. Santos requests the amount of fees paid to the Attorneys that reviewed the charter.**

**Lisa Wood, 91 Gosset's Turn Drive, President of the Teachers Union, inquired what would happen if the Town Council did not ratify the teacher's contract. Ms. Wood also expressed concern that the Town Council was removing power from other elected officials, along with the timing of this change, noting that the unions have just bargained in good faith and the amendment would not be good for relations.**

**Vice President Long, responding to Ms. Woods, explained that if the Town Council did not ratify the contract, the contract would go back to the School Committee.**

**Town Administrator Shawn Brown noted that the Town Council would be ratifying the overall bottom line of the School contracts.**

**Council President Weber noted that the Town Council would have more control over labor contracts and over all bottom line of the budget.**

**Theresa Spengler, 1111 Wapping Road, Vice Chair School Committee, addressed the Council expressing concern that the amendment would give seven people a lot of control and if the Council did not ratify the contract, the School department would have an increase in legal fees for negotiations. Ms. Spengler suggested that the Town Administration review inefficiencies instead of changing the charter.**

**Manuel Mello, Beacon Terrace North, noted that the Council appropriates monies and has to answer to the taxpayers.**

**Steve Fagan, 5 Toni Lynn Terrace, addressed the Council noting concern with Section 913; explaining that the School Committee, an elected body would be subordinate to the Town Council. Mr. Fagan explained that he sees this as power play and believes the Town Council would gain too much power.**

**Peter Faerber, 25 King Road, urged the Council to vote no. Mr. Faerber explained that the Town Charter is the foundation of the Town and should have a periodic review by the citizens.**

**There being no other persons present desiring to be heard, public hearing was declared closed.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to recess this meeting at 6:55 pm.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene this meeting at 7:05 pm.**

**PUBLIC FORUM SESSION**

**2. Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.**

**No one addressed the Council during this session.**

## **PRESENTATION**

**3. Memorandum of Town Administrator, re: Middletown Pension Plan – Experience Study Report July 1, 2006 – June 30, 2011.**

**Finance Director Lynne Dible reviewed the memorandum, entered here:**



**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**Jonathan Chipko, F.S.A, E.A., M.A.A.A., F.C.A. Senior Consultant, Retirement Actuary, representing Buck Consultants, addressed the Council reviewing the Report on the Results of an Experience Study of the Town of Middletown Pension Plan Covering the Period July 1, 2006 Through June 30, 2011, which is on file in the Office of the Town Clerk.**

**Town Administrator Shawn Brown noted that the Town's Investment Advisory Committee actively works with the Investment Advisor.**

**4. Resolution of the Council, re: Adopting the recommended assumption changes as a result of the Experience Study, incorporated into July 2012 Actuarial Valuation Report.**

**On motion of Vice President Long, duly seconded, it was voted**

**unanimously to pass said resolution.**

## **CONSENT**

### **5. Approval of Minutes – Special Meeting, April 30, 2012.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.**

### **6. Approval of Minutes – Regular Meeting, May 7, 2012.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.**

### **7. Continued from Regular Meeting, May 7, 2012**

**Continued from Regular Meeting, April 16, 2012**

**Continued from Regular Meeting, April 2, 2012**

**Continued from Regular Meeting, March 19, 2012**

**Continued from Regular Meeting, March 5, 2012**

**Memorandum of Town Administrator, with enclosures, re: Second Beach Equipment Rental Concession. (Administration requests to withdraw this item).**

**On motion of Vice President Long, duly seconded, it was voted unanimously to withdraw said memorandum.**

**8. Continued from Regular Meeting, May 7, 2012**

**Continued from Regular Meeting, April 16, 2012**

**Continued from Regular Meeting, April 2, 2012**

**Continued from Regular Meeting, March 19, 2012**

**Continued from Regular Meeting, March 5, 2012**

**Resolution of the Council, re: Second Beach Equipment Rental Concession.**

**(Administration requests to withdraw this item).**

**On motion of Vice President Long, duly seconded, it was voted unanimously to withdraw said resolution.**

**9. Communication of Finance Director, with enclosures, re: Cancellation of taxes for certain Middletown residents.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.**

**10. Resolution of the Council, re: Cancellation of taxes for certain Middletown residents.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

**11. Memorandum of Town Planner, re: Confirmation of Planning Board recommendation for AIPC appointments.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**12. Petition received from Abigail D. Chapman for perpetual care of burial lot 50 in Section 49 of the Middletown Cemetery.**

**On motion of Vice President Long, duly seconded, it was voted**

**unanimously to approve said petition.**

**13. Application of Thomas Santilli dba Green Hill Builders, Narragansett, RI for RENEWAL of a Drain Layers License for the 2012-2013 licensing year.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.**

**14. Application of HPK, Inc. dba Tickets, 15 Aquidneck Avenue, for RENEWAL of an Amusement License for the 2012-2013 licensing year.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.**

**15. Application of Johnny's Atlantic Beach, Inc. dba Johnny's Atlantic Beach Club, 53 Purgatory Road, for RENEWAL of an Amusement License for the 2012-2013 licensing year.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license renewal.**

**16. Application for Special Event Permit from Brian Chakulski, Sullivan/Chakulski Wedding to be held at Dunlap Wheeler Park on Sunday, September 2, 2012.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said Special Event Permit.**

**17. Resolution of the Town of East Greenwich, re: Requesting support of S-2928 Entitled, An Act Relating to Taxation – Taxation of Farm, Forest and Open Space Land.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said resolution.**

## **LICENSE & PERMITS**

**18. Memorandum of Town Solicitor, re: KJ's Pub – expansion of food service to outside area.**

**Town Solicitor Michael W. Miller reviewed the memorandum, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**19. Continued from Regular Meeting, May 7, 2012**



**Continued from Regular Meeting, April 16, 2012**

**Application of KJ's Pub, LLC dba KJ's Pub, 59-61 Aquidneck Avenue, for expansion of Victualling House License to include the outside patio (24 seats) for the 2011-2012 licensing year. (NEW)**

**Council President Weber read THE withdrawal request from the applicant's Attorney Jeremiah C. Lynch, III, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to withdraw said application, without prejudice, at the request of the Attorney representing the applicant.**

**Attorney Robert M. Silva, representing abutter Rosemary Nunes, addressed the Council noting that he has no objection to the withdrawal of the application.**

**20. Application of James E. Mitchell, Jr. dba Castaway Coastal Catering, LLC, Newport, Rhode Island for a Hawkers License for the 2012-2013 licensing year. (NEW; Permission given from Knights of Columbus and requests Special Events by Invitation only)**

**On motion of Vice President Long, duly seconded, it was voted unanimously to grant said license.**

## **PUBLIC HEARING**

**21. Public Hearing (Advertised)**

**(Public Hearing Remains Open)**

**An Ordinance of the Town of Middletown (Second Reading)**

**An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152, The Zoning Code, Article 4 Definitions, Sections 602B and 725 (Solar Array). (Planning Board recommendation attached)**

**Public Hearing remains open.**

**Manuel Mello, Beacon Terrace North, addressed the Council noting his opposition to this ordinance. Mr. Mello explained he is against selling electricity back to National Grid, it negatively impacts ratepayers.**

**There being no other persons present desiring to be heard, public hearing was declared closed.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.**

**ORDINANCES**

## **22. Continued from Regular Meeting, May 7, 2012**

### **An Ordinance of the Town of Middletown (Second Reading)**

**An Ordinance in Amendment to the Town Code of the Town of Middletown, Title IX General Regulations, Chapter 91 Fire Protection, Section 91.12 Bonfire, Rubbish Fires Regulated.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to continue the discussion concerning this ordinance.**

**Fire Chief Ronald Doire addressed the Council explaining that the amendments to this ordinance reduce the effects of open burning within the Town. The revisions include an increase in distance from structures and no open burning May 1st thru September 30th.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to amend ordinance with changes brought forward.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to adopt said ordinance, as amended on its second reading.**

**23. Memorandum of Town Administrator, re: Middletown Code of Ordinance, Chapter 116: Taxicabs.**

**Town Administrator Shawn Brown reviewed the memorandum, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**24. An Ordinance of the Town of Middletown (First Reading)**

**An Ordinance in Amendment to the Town Code of the Town of**

**Middletown, Title XI: Business Regulations, Chapter 116 Taxicabs.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance on its first reading.**

## **OTHER COMMUNICATIONS**

**25. Memorandum of Town Administrator, re: Ban on Single Use Plastic Grocery Bags.**

**Town Administrator Shawn Brown reviewed the memorandum, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**Mr. Brown noted that the program should be introduced at the state level.**

**It was the consensus of the Council that a request be submitted to the Legislative Delegation supporting the initiative regarding Ban on Single Use Plastic Grocery Bags.**

**Council President Weber requested the Town Administrator to send correspondence notifying the Legislative Delegation that Middletown Town Council supports the initiative of banning single use plastic bags.**

**26. Continued from Regular Meeting, May 7, 2012**

**Continued from Regular Meeting, April 2, 2012**

**Continued from Regular Meeting, March 19, 2012**

**Communication of Lisa Wagenbach, Volunteer/Activist, for Surfrider**

**Foundation Rhode Island Chapter, Narragansett, re: Request Middletown to Ban single use plastic bags.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.**

**Lisa Wagenbach, Volunteer/Activist, for Surfrider Foundation Rhode Island Chapter, Narragansett, addressed the Council reviewing the above communication, along with the communication below, item #27. Ms. Waganbach noted that West Marine has been added to the list of businesses that will be a plastic bag free business.**

**27. Communication of Lisa Wagenbach, Volunteer/Activist, for Surfrider Foundation Rhode Island Chapter, Narragansett, re: Further findings relating to banning the single use plastic bag in Middletown.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.**



**28. Communication of Donald & Marlene Davis, 8 Orville Drive, re: Request to reduce speed limit in Chases Estates (Casey Drive, Murphy Circle, Donald Drive and Orville Drive) and post slow children signs.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.**

**Donald Davis, 8 Orville Drive, addressed the Council noting that the Chases Estates neighborhood has changed, there are many small children in the area and requests the speed limit to be reduced to 15 mph.**

**29. Memorandum of Town Administrator, with enclosure, re: Recommendation for Speed Limit Ordinance for Chase Estates Neighborhood.**

**Town Administrator Shawn Brown reviewed the memorandum, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to direct the Town Clerk to prepare a Speed Limit Ordinance for Chases Estates Neighborhood for consideration at the next regular meeting of the Council, held on June 4, 2012.**

## **COMMUNICATIONS OF TOWN COUNCIL**

**30. Continued from Regular Meeting, May 7, 2012**

**Continued from Regular Meeting, April 16, 2012**

**At the request of Council President Weber, Resolution of the Council, re: Opposing passage of Article 24 within House Bill 7323 – changing the term “hotel” to include houses, condominiums or other dwelling units, which are rented out for a total of fifteen (15) days or more per year.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

**31. Continued from Regular Meeting, May 7, 2012**

**Continued from Regular Meeting, April 16, 2012**

**At the request of Council President Weber, Resolution of the Council, re: Opposing H7617, H7618, H7619 and H7620 “Acts Relating to Labor and Labor Relations” and H7250 and S2532 mandating expired teacher contracts must continue at the existing terms and conditions.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

## **TOWN ADMINISTRATOR COMMUNICATION**

**32. Memorandum of Town Administrator, with enclosure, re: Third Beach Dinghy/Kayak Rack Rental Rules & Regulations.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**Town Administrator Shawn Brown noted that the ordinance adopted regarding the Third Beach Dinghy/Kayak Rack Rentals requires regulations for the rentals.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to approve said Dinghy/Kayak Rack Rental Rules & Regulations.**

**33. Memorandum of Town Administrator, with enclosures, re: Tax Agreement between City of Newport and Town of Middletown.**

**Town Administrator Shawn Brown reviewed the memorandum and agreement, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**Mr. Brown noted that the Town has been in the process of developing the agreement since 2004, funding has been set aside and there is no impact on the current budget.**

**34. Resolution of the Council, re: Approval of Tax Agreement with the City of Newport.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

**35. Memorandum of Town Administrator, with enclosures, re: Second Beach Equipment Rental Concession.**

**Recreation Director Tim Shaw reviewed the memorandum, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**36. Resolution of the Council, re: Second Beach Equipment Rental Concession.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

**37. Memorandum of Town Administrator, with enclosures, re: Third Beach Equipment Rental Concession.**

**Recreation Director Tim Shaw reviewed the memorandum, entered here:**

**On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.**

**38. Resolution of the Council, re: Third Beach Equipment Rental Concession.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.**

## **EXECUTIVE SESSION**

**39. Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-26-5 (a) (2) Litigation (Old Farm, LLC).**

**On motion of Vice President Long, duly seconded, it was voted unanimously to recess open session at 8:05 P.M. and reconvene in executive session.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene in open session at 8:40 P.M.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to seal the minutes of executive session pursuant to**



**Section 42-46-7. RIGL.**

**On motion of Vice President Long, duly seconded, it was voted unanimously to adjourn said meeting at 8:41 P.M.**

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**Wendy J.W. Marshall, CMC**

**Council Clerk**

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